

John Scaff estate, Darlington County, South Carolina Bills in Equity (Chancery Court) – revised

1. Filed 20 November 1851: Thomas Hill & wife, Ira Oliver & wife, Ezekiel Scaff, Emilla Scaff, John Seymore, Alexander Seymore vs. Riley Scaff, William J. Morris & wife, Ezekiel Hill & wife; Bill for Account & Relief¹
2. Filed 25 January 1854: William J. Morris & wife, Thomas Hill & wife, Ezekiel Hill & wife, Ira Oliver & wife, Riley Scaff, John Riley Seymore vs. Emilla Scaff, Ezekiel Scaff, Chloe Scaff, Sarah A. Scaff, Emily P. Scaff, J. Early Scaff, Margaret M. Scaff, Marantha Scaff, William Alexander Seymore, Bill for Account & Partition²

First Suit

Petition: Complainants' attorney stated that John Scaff had died on ____ day of ____ in 1847 leaving a considerable estate, both real and personal, including one or more tracts of land; that he had conveyed to his widow during her widowhood the tract of land on which he lived except that part he had conveyed to his son Riley *[didn't find this deed]*; that the Executors had sold at various times one or more tracts of land and other goods and chattels belonging to the estate for unknown sums; that the plaintiffs had made reasonable but unmet requests to the Executors for an accounting of what was sold, when and for how much and were now petitioning the court to make the Executors provide such an accounting. The order to appear was issued to the Executors plus Ezekiel and Chloe Hill on the same date and served on November 26th.

Court order, 9 February 1852: that the bill be take pro confesso against the defendants *["When the defendant has been served personally with a subpoena, or when not being so served has appeared, and afterwards neglects to answer the matter contained in the bill, it shall be taken pro confesso, as if the matter were confessed by the defendant."]*

Answer from Executors by their attorney *[there is no date for when this was filed but it was sworn to by William Morris on 12 January 1852 and by Riley Scaff on 19 April 1852, and the latter probably explains the above court order]*: that John Scaff had two tracts of land at the time of his death, one being where he lived containing about 442 or 443 acres³ *[under the terms of John's will, son Riley inherited this on his mother's death and he sold it to John*

¹ Darlington County, South Carolina, Equity court records (loose papers), 1805-1871, images, FamilySearch.org : accessed 27 December 2020; Bills no. 309-326, microfilm no. 317591; Bill no. 317, imgs 344-384.

² Ibid; Bills no. 453-465, microfilm no. 317600; Bill no. 457, imgs 193-211.

³ **Added 10/4/23**: This is inconsistent with John Scaff's will, in which he referred to the tract where he lived as containing "about two hundred forty three acres" but the tract did indeed contain 443 acres: when Riley Scaff sold the land excepting the widow's dower in 1849 (Deed Book Q, p. 298, image 423), he gave the acreage as 443 acres and references the survey done by Samuel Turnstall on 17 April 1737; all of this information is confirmed by the survey record found in the State Plat Books at the North Carolina Archives online.

McKay Sr. on 1 October 1849, with the proviso that grantee not take possession of the widow's dower portion until her death; Deed Book Q, p. 298] and the other being 277½ acres ; that 29½ acres of the latter were sold at public auction on 3 March 1847 to highest bidder Mark Maddling for \$29.50 *[no deed has been found]*, and that the remaining 248 acres were sold at public sale on 29 January 1848 to highest bidder Riley Scaff at 87½ cents per acre *[calculates to \$217; it looks like Riley sold this in December 1849 (Deed Book Q, p. 304), 124 acres between Lake Swamp and Sparrow Swamp bounded by E Scaff, Wm Lawhon, Ira Oliver & J Hill, "the 124 acres sold to Ezekiel Scaff excepted" (no deed found)]*.

Legatees were identified *[and the numbers inserted by their names as indicated here]* as Chloe Hill, wife of Ezekiel Hill \$100; Emilla Scaff, widow¹; Mary Hill, wife of Thomas Hill²; Ezekiel Scaff³; Zilpha Seymore's children: Sarah Oliver, wife of Ira Oliver, and John and Alexander Seymore⁴ *[Ira Oliver was appointed Guardian ad litem of the two Seymore minors the same day the suit was filed]*; Riley Scaff⁵; Sarah Morris, wife of William J. Morris⁶ *[John's will specified that when his personal property was sold, daughter Chloe was to receive \$100 and the balance was to be divided between Emilla, his other surviving children and Zilpha Seymore's children]*.

Commissioner's report, 22 April 1852: On review of the Executors' returns there were three points of controversy: 1) how much the bacon and lard was appraised at (\$162.50) vs. how much it was sold for (\$75.88½), with half the difference charged to the Executors by the Commissioner; 2) a note on William Baker for \$29.40 that was appraised as "doubtful" that they failed to try and collect on despite evidence he had assets, for which the two Executors "were charged concurrently with all the liabilities of the trust;" and 3) the 248 acres sold to Riley for 87½ cents per acre, to which no title had been issued "as it was generally repudiated by the parties interested & I had no doubt the court would set it aside. I have excluded that amount from the account." The Commissioner concluded the report by stating that the balance due by the Executors was \$893.32, with 1/6 each due to the above-named legatees.

The attorneys for the plaintiffs entered an exception: 1) to the charge for the bacon and lard; 2) that if it was to be charged, it should be charged to Riley alone "who lived at the place and had charge of the same;" and 3) that the Executors were requesting separate accounts be calculated for each of them. The court overruled the first, sustained the second and ordered the commissioners to recalculate what was due to the legatees based on separate accounts for each Executor. The court also ordered that the 248 acres be sold by the commissioners. This land was described as being situated between Sparrow Swamp and Lake Swamp, bounded by Ezekiel Scaff, William Lawhon, James J. Oliver, James Hill and Thomas Hill. It was purchased at the public sale held in July 1852 by James P. Wilson for \$625 *[Deed Book R, pp. 515-516; Wilson directed that title be executed to John M. Timmons]*.

Commissioner's report, 1 November 1852: re-filed with separate accounts calculated for each Executor, with William J. Morris owing the legatees \$577.19 and Riley Scaff owing them \$301.93. The report was approved by the Court with the consent of the attorneys for both sides on November 8th.

Court order, 15 February 1853 stating that "having been served with a rule to shew cause why they failed to pay parties..the several sums due them according to a decree of this court..." the Executors were ordered to pay plaintiffs their due within 60 days or an attachment against them would be issued.

Second Suit

Petition: Attorney for plaintiffs [*Executors et al.*] stated that John Scaff's will gave his wife during her widowhood the use of a tract of land whereon he lived, except the portion deeded to his son Riley, and the use of 7 slaves plus household and kitchen furniture, stock and tools; that on Emilla's death, the stock etc. was to be sold and \$150 be paid to testator's grandchildren Sarah Oliver, John Riley Seymore and William Alexander Seymore and then the remainder divided between his children Riley Scaff, Sarah Morris, Mary Hill, Chloe Hill & Ezekiel Scaff, and the slaves were to be divided between the first four and Ezekiel Scaff's children, who are all under 21 with the youngest under 1 year old, i.e., Chloe, Sarah A., Emily P., J. Early, Margaret M. and Marantha Scaff...

That the Executors had paid some legacies after the legatees had filed a bill against them in November 1851 but that some of them were still owed...

That since the decree Emilla Scaff had transferred all right and title to the personal property and slaves left to her by John's will "as I am old and in feeble health, and desire that the persons who will be entitled to said property under said will, at my death, shall now have and enjoy the same... that ample provision has been made for my support during my life by my sons and sons-in-law" [*\$100 to be paid annually by William J. Morris, Ezekiel Scaff, Riley Scaff, Ezekiel Hill and Thomas Hill; this transfer of title was executed on 28 December 1853*]...

And that all of the adult parties were desirous to have a final settlement of the estate and a partition of the slaves but that the Executors had been advised to petition the court since the interests of minors are involved who are incapable of giving their assent to this partition.

Joint answer of the "infant defendants," 30 January 1854: the answer of William Alexander Seymore and Ezekiel's children by their Guardian *ad litem* Ezekiel Scaff, "specially admitted and appointed to the bill of complaint," that they agree the two exhibits are true copies [*John Scaff's will and Emilla Scaff's transfer of title*] but "as to the other matters...these defendants know nothing and are ignorant of their rights..."

Commissioners' return, 10 February 1854: slaves divided [**born since death of testator*]; to Riley: Jesse and Charity; to Thomas and Mary Hill: Luzetta & infant Harvey* and Isaac*; to William J. and Sarah Morris: Minda, Fred* and Sylvia*; to Ezekiel's children: Peter and Charles*; to Ezekiel and Chloe Hill: Zilpha and Melvina.

NEWMAN

FAMILY

TREE